

BRIAN R. CHAVEZ-OCHOA
CALIFORNIA STATE BAR #190289
CHAVEZ-OCHOA LAW OFFICES
4 JEAN STREET, SUITE 4
VALLEY SPRINGS, CALIFORNIA 95252
(209) 772-3013
FAX (209) 772-3090

THOMAS M. HARVEY
BBO#: 225050
1 CONSTITUTION CENTER
FIRST FLOOR
BOSTON, MASSACHUSETTS 02129
(617) 886-0364

Attorneys for Plaintiffs

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

REV. PATRICK J. MAHONEY, CHRISTIAN)
DEFENSE COALITION, OPERATION
RESCUE BOSTON and OPERATION
RESCUE WEST, BRANDI SWINDELL,
GENERATION LIFE, and SURVIVORS OF
THE ABORTION HOLOCAUST,
Plaintiffs,

vs.

TOM RIDGE, Secretary of the Department of
Homeland Security, in His Official Capacity,
W. RALPH BASHAM, Director of the United
States Secret Service, in His Official Capacity,
JOHN DOE AGENT, Field Agent in Charge
of the Boston Office for the United States
Secret Service, in His Official Capacity, JOHN
DOE AGENTS 1 to 20, in Their Official
Capacity as Special Agents for the United
States Secret Service.
Defendants.

Case No.:

DECLARATION OF PATRICK J.
MAHONEY IN SUPPORT OF
APPLICATION FOR TEMPORARY
RESTRAINING ORDER

04 11649 NMG

I, Patrick J. Mahoney, hereby declare:

1 1. I am one of the plaintiffs' in the above-entitled matter and I make this declaration
2 out of my own personal knowledge. If called upon to testify to the contents herein, I could and
3 would do so competently.

4 2. I am an ordained Presbyterian Minister and the Director for the Christian Defense
5 Coalition. It is my intention to exercise my First Amendment rights in Boston during the week
6 of July 24 through August 1, 2004 at and during the Democratic National Convention.

7 3. I submitted several permit applications to the City of Boston pursuant to their
8 newly enacted permitting process. Subsequent to my submitting my permit applications, I was
9 granted several permits by the City of Boston, including a permit to exercise my First
10 Amendment rights at Louisburg Square and Pinckney Street.

11 4. On July 23, 2004 I was notified by my attorney that the City of Boston had
12 summarily cancelled my permit for Louisburg Square and Pinckney Street. The reason that was
13 given for the cancellation of my permit in this noted area was "National Security". Earlier that
14 day, I had met with a secret service agent stationed in front of Senator Kerry's residence located
15 at Louisburg Square and Pinckney Street. I was informed that the secret service was going to
16 close down the street in front of Senator Kerry's House. This closure encompassed Louisburg
17 Square and Pinckney Street.

18 5. The secret service agent also informed me that residents that lived in the closure
19 area would be allowed access to Louisburg Square and Pinckney Street. The agent was not
20 specific as to whether or not other individuals would be allowed access to Louisburg Square and
21 Pinckney Street such as the media, the casual pedestrian, the dog-walker and other vehicular
22 traffic.

23 6. My intended First Amendment activity in the now closed area encompassed the
24 laying of a bouquet of roses at the corner of the home (at the corner of Louisburg Square and
25 Pinckney Street) of the presumptive Democratic Presidential candidate John Kerry (symbolic of
26 the aborted children whose lives have been shamefully taken through and by means of abortion)
27 then offering a prayer for these children (the intended message to Senator John Kerry that this
28 nation needs to protect the unborn) and thereafter leaving the area.

1 7. In an attempt to reach a resolution with the defendants I give my attorney
2 permission to contact the defendants and offer to them a compromise that would have allowed
3 for the First Amendment activity to proceed. The compromise existed of the offer to send but
4 just one or two women into this noted area, and further consented unnecessarily but voluntarily
5 to a body search of their person and to the possessions of the one or two persons that would
6 participate in the First Amendment activity described above in order to alleviate security
7 concerns. This constitutional message/speech would have encompassed but a brief period of
8 time, not to exceed even twenty minutes.

9 8. The compromise offer described above wherein it was voluntarily agreed to
10 consent and subject the one or two women to a search of their person, and a search of their
11 possessions (bouquet of roses) that they intended to carry into the closed off area is all the
12 security that the defendants needed to assure the safety of Senator Kerry especially in light of the
13 fact that Senator Kerry will not be at home during the planned First Amendment activity in front
14 of the Senator's home. Senator Kerry is presently on a national tour and is expected to arrive in
15 Boston sometime around Wednesday, July 28, 2004.

16 9. I am further challenging the issue of National Security versus First Amendment
17 rights, even in light of September 11, 2001 and the terrorist attacks that took place that day. I
18 contend that National Security cannot suspend First Amendment rights; there must be a
19 balancing between these two issues. If National Security is allowed to suspend First Amendment
20 rights, the future of demonstrations in this nation relevant to all issues, regardless of whether
21 conservative or liberal, shall fall victim to the very goal the terrorists attempted to accomplish on
22 that fateful day on September 11, 2001.

23 10. I believe that my First Amendment rights are precious and God given; our
24 founding fathers foresaw the future and put into place protections and safeguards that allowed for
25 and perpetuated robust and solicitous debates concerning the issues facing this country. The
26 defendants cannot be allowed to summarily suspend my constitutional rights without articulating
27 the nature of the threat and being made to prove that the threat is a real one. It is much too easy
28 to state that one cannot exercise his or her First Amendment rights because of National Security

1 concerns; however, the real question must be at what cost and at what loss of constitutional
2 rights? I choose not to live my life in fear; but rather instead hold steadfast to the belief that
3 absent my First Amendment rights and my ability to speak out on issues regardless of what that
4 issue might be, my freedoms that have been foretold and secured through the sacrifice of
5 American blood and American lives will have been for naught.

6 11. I additionally contend that regardless of whether or not I have a permit for any
7 area that is traditionally considered public fora that I have a constitutional right to exercise First
8 Amendment freedoms in those areas. Louisburg Square and Pinckney Street is such an area.

9 12. I am also in compliance with the permitting regulations of the City of Boston with
10 regard to First Amendment activity during the week of July 24 through August 1, 2004. The size
11 of the group (one or two women) that was offered in the compromise to the defendants is clearly
12 within the provisions of the City of Boston requirements. The City of Boston regulations
13 regarding First Amendment activity stipulates that groups of twenty individuals or less need not
14 a permit. Therefore, I was in compliance with the city's requirements.

15 13. I contend that it is unlawful and unconstitutional to leave open a sidewalk
16 generally to other uses while closing the same sidewalk down to First Amendment activities. I
17 assert that the defendants have no clear or firm plan to exclude others from entering the
18 sidewalk, and it is abundantly clear that residents will be allowed into the closed off area. My
19 question to the Court is whether the defendants intend to hold hostage or prisoner the residents
20 that live in the closed off area and whether or not the defendants intend to forbid these noted
21 residents from leaving their homes, putting out the trash, going for a casual walk, walking their
22 dogs, and/or any other number of reasons that may bring these residents out of their homes
23 during the time Louisburg Square and Pinckney Street are closed to First Amendment activity.

24 14. I contend that to allow residents that live within the closed area to use the
25 sidewalks generally while at the same time precluding the plaintiffs' and me from exercising
26 their/my First Amendment rights on these same sidewalks is unconstitutional. I should be able to
27 exercise my First Amendment rights without restraint at any time and in response to any issues
28 that may arise.

1 15. Presidential conventions only take place once every four years and should not be
2 subject to censure as is the case with the defendant's newly enacted closure of Louisburg Square
3 and Pinckney Street. More importantly, under the closure of Louisburg Square and Pinckney
4 Street, I cannot exercise my constitutional right to assembly and/or association in this noted area.

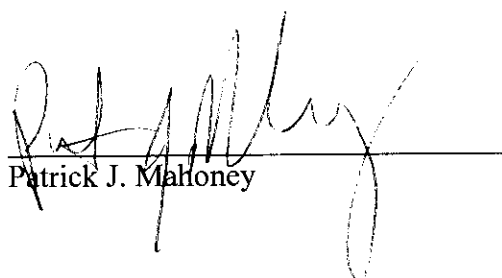
5 16. The newly enacted closure of the defendants restricts all First Amendment speech and
6 constitutional activities in, on, or around Louisburg Square and Pinckney Street. The defendants
7 cannot possibly point to any governmental interest that justifies such censorship. The defendants
8 have promulgated the newly enacted closure specifically for the Democratic National
9 Convention. Up to and until the Democratic National Convention, Louisburg Square and
10 Pinckney Street was open to the public including First Amendment activity. I personally
11 observed a gentleman holding a sign directly across the street from Senator Kerry's house that
12 advocated the re-election of President Bush and Vice President Cheney. I contend that the
13 closure provides for unfettered and unbridled discretion of the defendants in this case. There is
14 no indication of any standards the defendants must follow when rendering their decision to hide
15 behind National Security and close Louisburg Square and Pinckney Street to First Amendment
16 activity.

17 17. I believe that I have the guaranteed right to exercise my First Amendment
18 freedoms of speech, assembly and association. The defendants newly enacted closure of
19 Louisburg Square and Pinckney Street efficiently and effectively chill any participation in the
20 exercise of my constitutional rights in this area otherwise considered traditional public fora. The
21 decision of the defendants' to close this noted area infringes upon my constitutional rights as
22 guaranteed by the First Amendment to the United States Constitution and cannot be sanctioned,
23 nor condoned, by this Court. By way of this application, I ask the Court for a temporary
24 restraining order that orders that the defendants be denied the authority to leave the sidewalks
25 open generally to other uses while closing the sidewalks to First Amendment Activities for the
26 week of July 26 through August 1, 2004 during the Democratic National Convention, and
27
28

1 furthermore, deny the defendants the power to close Louisburg Square and Pinckney Street to
2 First Amendment activity for reasons of National Security while at the same time summarily
3 depriving me of my First Amendment freedoms until this matter can be heard on its merits.
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5 I hereby declare under penalty of perjury under the laws of the State of Massachusetts
6 and the United States of America that the foregoing is true and correct.

7 Executed this 26th day of July 2004.
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12 Patrick J. Mahoney
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